



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

Home Page: <http://www.azmd.gov>

Telephone (480) 551-2700 • Fax (480) 551-2704 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR SUMMARY ACTION TELECONFERENCE MEETING

Held at 12:00 p.m. on Friday, April 21, 2006

9545 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Robert P. Goldfarb, M.D., F.A.C.S., Chair

William R. Martin III, M.D., Vice Chair

Douglas D. Lee, M.D., Secretary

Patrick N. Connell, M.D.

Patricia R.J. Griffen

Tim B. Hunter, M.D.

Becky Jordan

Ram R. Krishna, M.D.

Lorraine L. Mackstaller, M.D.

Sharon B. Megdal, Ph.D.

Dona Pardo, Ph.D., R.N.

Paul M. Petelin Sr., M.D.

CALL TO ORDER

The Meeting was called to Order at 12:00 p.m.

ROLL CALL

The following Board Members were present: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Patricia R.J. Griffen, Becky Jordan, Ram R. Krishna, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., and Paul M. Petelin, Sr., M.D. The following Board Members were not present: Douglas D. Lee, M.D., Lorraine Mackstaller, M.D. and Dona Pardo, R.N., Ph.D.

Tim B. Hunter, M.D. joined the meeting at 12:04 p.m.

CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
1.	MD-06-0256A	J.L.	HOWARD LEE MITCHELL III, M.D.	30004	Summary Suspension

The complainants, J.L. and G.L., the parents of the patient J.L were present telephonically and spoke during the call to the public. J.L.'s mother said they felt daughter's life has been on hold for the past several years due to Howard Mitchell, M.D.'s overprescribing of controlled substances. They said J.L. has been unable to function as an adult due to her progressed addiction while under Dr. Mitchell's care. J.L.'s mother said J.L. considers Dr. Mitchell to be her friend who helps relieve her pain. However, J.L.'s mother said that other physicians have found that a mere Tylenol would have solved J.L.'s minor pain. J.L.'s mother said her daughter is currently in a halfway house for substance abuse.

Howard Mitchell, M.D. was present without counsel. Dr. Mitchell said he did not feel prepared to respond to the case because he was not given specific allegations from Board Staff. Dr. Mitchell said he did the best he could for J.L. as she was in clear pain. He said he appropriately treated the pain and psychiatric difficulties of J.L. and did his best to minimize the amount of pain medications J.L. took. Dr. Mitchell said it may not have been obvious to him that J.L. was manipulating the system, but he felt he did not over-prescribe and did his best to give the patient the best quality of life possible.

Carol Peairs, M.D., Medical Consultant summarized the case for the Board. Dr. Peairs said the complaint was submitted by J.L.'s parents who alleged Dr. Mitchell continually overprescribed controlled substances, without proper diagnosis or consultations. They also alleged that, after successful detoxification, Dr. Mitchell resumed prescribing of controlled substances necessitating a second inpatient detoxification.

Dr. Peairs said Dr. Mitchell's initial evaluation of J.L. showed no discernible treatment plan and copies of Dr. Mitchell's prescriptions throughout his records were not listed either in the office notes or in the form of a flow sheet. Dr. Peairs said she obtained a prescribing pattern based on copies of prescriptions in Dr. Mitchell's medical records. Dr. Peairs found Dr. Mitchell's prescribing pattern showed repeated early refills and escalating dosages of controlled substances for J.L. Dr. Mitchell referred J.L. to two specialists, one of whom found J.L.'s problems were minimally spine related and the other of whom found the opioid dosage from Dr. Mitchell seemed excessive for the medical conditions and represented a "legal narcotic addiction".

In November 2005, according to the complaint, J.L. was admitted for, and successfully completed, inpatient detoxification. Two weeks after detoxification Dr. Mitchell resumed prescribing of controlled substances to J.L. Dr. Mitchell continued to supply thirty day prescriptions of escalating dosages of multiple sustained release opioid, at intervals of one to ten days. In the last 24 hour period that Dr. Mitchell prescribed for J.L., he wrote five prescriptions for three different sustained release opioids, three prescriptions for two different benzodiazepines, and a prescription for immediate release opioid. Five days later, J.L. reportedly presented to the emergency room with acute psychosis and was subsequently transferred by ambulance to an inpatient detoxification center. Dr. Peairs said she found Dr. Mitchell fell below standard of care in the treatment of J.L.'s chronic nonmalignant pain.

Addressing Dr. Mitchell's earlier statement that he was unaware of the issues in the case, Patricia Reynolds, Senior Medical Investigator said Dr. Mitchell was noticed on the allegations in this case on April 3, 2006 and his response was due on April 19, 2006. Ms. Reynolds said the Board has not received Dr. Mitchell's response.

Paul M. Petelin, Sr., M.D. asked Dr. Peairs if the information from the investigation could confirm that the source and origin of prescriptions were from Dr. Mitchell and were not forged. Dr. Peairs said all prescriptions reviewed in the case were based on copies of prescriptions included in the medical records Dr. Mitchell provided to Board staff.

William R. Martin, III, M.D. noted Dr. Mitchell's significant prior Board History for issues including, but not limited to, inappropriate prescribing and inadequate record keeping and asked Staff if the occurrences in this case were prior to the Board's disciplinary action for related issues. Christine Cassetta, Board Legal Counsel said Dr. Mitchell's inappropriate prescribing for J.L. began in 2003 continued until March of 2006, showing the events in this case occurred both before and after discipline for similar behavior had been given by the Board.

Patrick N. Connell, M.D. said he found Dr. Mitchell's practice pattern appalling and a clear danger to the public.

MOTION: Patrick N. Connell, M.D. moved to Summarily Suspend the license due to an imminent threat to the public.

SECONDED: Ram R. Krishna, M.D.

Sharon B. Megdal, Ph.D. suggested the Board consider an assessment of the physician to further determine if he was safe to practice medicine.

William R. Martin, III, M.D. spoke in support of the motion because he found the physician to be an imminent danger to the public. However, Dr. Martin noted the Board was considering the testimony of J.L.'s family and that further evidence may render additional information either in favor of or against Dr. Mitchell's care. Robert P. Goldfarb, M.D. said that the case will be referred to Formal Hearing for Revocation, which will bring out further evidence.

Patrick N. Connell, M.D. asked the Board's legal advisor if ordering Dr. Mitchell to a Physician Assessment and Clinical Evaluation (PACE) would be helpful to the Administrative Law Judge's consideration in the Formal Hearing.

The Board went into Executive Session at 12:23 p.m.

The Board returned to Open Session at 12:29 p.m.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Patricia R.J. Griffen, Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., and Paul M. Petelin, Sr., M.D.

VOTE: 9-yay, 0-nay, 0-abstain/recuse, 3-absent

MOTION PASSED.

The meeting was adjourned at 12:31 p.m.



A handwritten signature in black ink, appearing to read "T. C. Miller".

Timothy C. Miller, J.D., Executive Director